

AMENDED IN SENATE APRIL 16, 2009

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 425**

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**Introduced by Senator Simitian**

February 26, 2009

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An act to add Sections 17053.58, 17284, 23658, and 24343.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 425, as amended, Simitian. Personal and corporate income taxes: deductions: parking: credits: ridesharing expenses.

The Personal Income Tax Law and the Corporation Tax Law allow various deductions in computing the income that is subject to the taxes imposed by those laws. Existing law allows an employer to deduct its expenses in carrying out a parking subsidy and a parking cash-out program, as defined, for employees.

This bill would disallow a deduction for expenses of specified employers for parking subsidies unless all employees provided with a parking subsidy are offered a parking cash-out program in accordance with a specified statute.

The Personal Income Tax Law and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit under both those laws, for taxable years beginning on or after January 1, 2009, in an amount not to exceed \$1,500 for qualified commute reduction expenditures, as defined, for specified small-business taxpayers.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.58 is added to the Revenue and  
2 Taxation Code, to read:  
3 17053.58. (a) For taxable years beginning on or after January  
4 1, 2009, there shall be allowed to a taxpayer as a credit against the  
5 “net tax,” as defined in Section 17039, an amount equal to 80  
6 percent of the costs paid or incurred during the taxable year by the  
7 taxpayer for qualified commute reduction expenditures, not to  
8 exceed one thousand five hundred dollars (\$1,500).  
9 (b) For purposes of this section:  
10 (1) “Buspool” means 16 or more persons commuting on a daily  
11 basis to and from work by means of a vehicle with a seating  
12 arrangement designed to carry more than 15 adult passengers.  
13 (2) “Carpool” means two or more persons commuting on a daily  
14 basis to and from work by means of a vehicle with a seating  
15 arrangement designed to carry less than seven adults, including  
16 the driver.  
17 (3) “Employee” means a person employed by the taxpayer on  
18 a full-time basis, who performs, at a minimum, 30 hours per week  
19 for compensation.  
20 (4) “Private commuter bus” means a highway vehicle which  
21 meets all of the following criteria:  
22 (A) Has a seating capacity of at least seven adults, including  
23 the driver.  
24 (B) At least 50 percent of the mileage of which can be  
25 reasonably expected to be used for the purpose of transporting  
26 employees to and from work.  
27 (C) Is acquired by the taxpayer on or after the date of enactment  
28 of this section.  
29 (D) With respect to which the taxpayer makes an election under  
30 this paragraph on his or her return for the taxable year in which  
31 the vehicle is placed in service.  
32 (5) “Qualified commute reduction expenditure” means costs  
33 paid or incurred by the taxpayer for any of the following:  
34 (A) Subsidizing employees commuting in vanpools.

1 (B) Subsidizing employees commuting in private commuter  
2 buses or buspools.

3 (C) Subsidizing monthly transit passes for its employees or for  
4 use by the employee's dependents, except that no deduction shall  
5 be allowed for transit passes issued for the use of elementary and  
6 secondary school students.

7 (D) Subsidizing employees commuting in subscription taxipools.

8 (E) Subsidizing employees commuting in a carpool.

9 (F) Subsidizing employees commuting in a ferry.

10 (G) Providing free or subsidized parking to carpools, vanpools,  
11 or any other vehicle used in a ridesharing arrangement within  
12 California.

13 (H) Making facility improvements to encourage employees, for  
14 the purpose of commuting from their homes, to use bicycles.

15 (I) Making facility improvements to encourage employees to,  
16 or subsidizing employees who already use, an alternative  
17 transportation method, other than a method specified in this  
18 paragraph, that reduces the use of a motor vehicle by a single  
19 occupant to travel to or from that employee's place of employment.

20 (J) Subsidizing employees who travel to or from a  
21 telecommuting facility.

22 (6) "Subscription taxipool" means a type of service in which  
23 employers or groups of employees contract with a public or private  
24 taxi operator to provide daily commuter service for a group of  
25 preassembled subscribers on a prepaid or daily fare basis following  
26 a relatively fixed route and schedule tailored to meet the needs of  
27 the subscribers.

28 (7) "Taxpayer" means a person or entity engaged in a trade or  
29 business within California who employs a maximum of 20  
30 employees. "Taxpayer" shall not include the state, a county, a city,  
31 a city and county, a special district as defined in Section 12712 of  
32 the Government Code, a school district, a community college  
33 district, the California State University system, or the University  
34 of California.

35 (8) "Transit" means transportation service for use by the general  
36 public that utilizes buses, railcars, or ferries with a seating capacity  
37 of 16 or more persons.

38 (9) "Transit pass" means any purchase of transit rides that  
39 entitles the holder to any number of transit rides to and from the  
40 workplace, whether at a discount rate or the base fare rate.

(10) “Vanpool” means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adults, including the driver, that is used to transport those persons who commute to and from work on a regular basis.

(c) This credit shall be in lieu of any other deduction which the taxpayer may otherwise claim pursuant to this part with respect to the costs paid or incurred during the taxable year by the taxpayer for qualified commute reduction expenditures.

~~(d) The aggregate amount of credit that may be allowed in any fiscal year pursuant to this section and Section 23658 shall be an amount equal to the aggregate revenue increase attributable in that same fiscal year to Sections 17284 and 24343.1.~~

~~(e) (1) The Franchise Tax Board shall allocate the credit to the taxpayer on a first-come, first-served basis.~~

~~(2) The taxpayer shall claim the credit on a timely filed original return.~~

~~(3) The date a return is received shall be determined by the Franchise Tax Board.~~

~~(4) The determinations of the Franchise Tax Board with respect to the date a return is received for purposes of this subdivision may not be reviewed in any administrative or judicial proceeding.~~

~~(f)~~

(d) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

~~(g)~~

(e) In the case where a credit allowed under this section exceeds the “net tax,” the excess credit may be carried over to reduce the “net tax” in the following taxable year, and succeeding taxable years, if necessary, until the credit has been exhausted.

SEC. 2. Section 17284 is added to the Revenue and Taxation Code, to read:

17284. (a) For taxable years beginning on or after January 1, 2009, no deduction is allowed under this part for amounts paid or

1 incurred by an employer subject to Section 43845 of the Health  
2 and Safety Code for parking subsidies unless all employees of the  
3 employer provided with a parking subsidy are offered a parking  
4 cash-out program in accordance with Section 43845 of the Health  
5 and Safety Code.

6 (b) For purposes of this section, “parking subsidy” and “parking  
7 cash-out program” have the same meaning as defined in Section  
8 43845 of the Health and Safety Code.

9 SEC. 3. Section 23658 is added to the Revenue and Taxation  
10 Code, to read:

11 23658. (a) For taxable years beginning on or after January 1,  
12 2009, there shall be allowed to a taxpayer as a credit against the  
13 “tax,” as defined in Section 23036, an amount equal to 80 percent  
14 of the costs paid or incurred during the taxable year by the taxpayer  
15 for qualified commute reduction expenditures, not to exceed one  
16 thousand five hundred dollars (\$1,500).

17 (b) For purposes of this section:

18 (1) “Buspool” means 16 or more persons commuting on a daily  
19 basis to and from work by means of a vehicle with a seating  
20 arrangement designed to carry more than 15 adult passengers.

21 (2) “Carpool” means two or more persons commuting on a daily  
22 basis to and from work by means of a vehicle with a seating  
23 arrangement designed to carry less than seven adults, including  
24 the driver.

25 (3) “Employee” means a person employed by the taxpayer on  
26 a full-time basis, who performs, at a minimum, 30 hours per week  
27 for compensation.

28 (4) “Private commuter bus” means a highway vehicle which  
29 meets all of the following criteria:

30 (A) Has a seating capacity of at least seven adults, including  
31 the driver.

32 (B) At least 50 percent of the mileage of which can be  
33 reasonably expected to be used for the purpose of transporting  
34 employees to and from work.

35 (C) Is acquired by the taxpayer on or after the date of enactment  
36 of this section.

37 (D) With respect to which the taxpayer makes an election under  
38 this paragraph on his or her return for the taxable year in which  
39 the vehicle is placed in service.

1 (5) “Qualified commute reduction expenditure” means costs  
2 paid or incurred by the taxpayer for any of the following:

3 (A) Subsidizing employees commuting in vanpools.

4 (B) Subsidizing employees commuting in private commuter  
5 buses or buspools.

6 (C) Subsidizing monthly transit passes for its employees or for  
7 use by the employee’s dependents, except that no deduction shall  
8 be allowed for transit passes issued for the use of elementary and  
9 secondary school students.

10 (D) Subsidizing employees commuting in subscription taxipools.

11 (E) Subsidizing employees commuting in a carpool.

12 (F) Subsidizing employees commuting in a ferry.

13 (G) Providing free or preferential parking to carpools, vanpools,  
14 or any other vehicle used in a ridesharing arrangement within  
15 California.

16 (H) Making facility improvements to encourage employees, for  
17 the purpose of commuting from their homes, to use bicycles.

18 (I) Making facility improvements to encourage employees to,  
19 or subsidizing employees who already use, an alternative  
20 transportation method, other than a method specified in this  
21 paragraph, that reduces the use of a motor vehicle by a single  
22 occupant to travel to or from that employee’s place of employment.

23 (J) Subsidizing employees who travel to or from a  
24 telecommuting facility.

25 (6) “Subscription taxipool” means a type of service in which  
26 employers or groups of employees contract with a public or private  
27 taxi operator to provide daily commuter service for a group of  
28 preassembled subscribers on a prepaid or daily fare basis following  
29 a relatively fixed route and schedule tailored to meet the needs of  
30 the subscribers.

31 (7) “Taxpayer” means a person or entity engaged in a trade or  
32 business within California who employs a maximum of 20  
33 employees. “Taxpayer” shall not include the state, a county, a city,  
34 a city and county, a special district as defined in Section 12712 of  
35 the Government Code, a school district, a community college  
36 district, the California State University system, or the University  
37 of California.

38 (8) “Transit” means transportation service for use by the general  
39 public that utilizes buses, railcars, or ferries with a seating capacity  
40 of 16 or more persons.

1 (9) “Transit pass” means any purchase of transit rides that  
2 entitles the holder to any number of transit rides to and from the  
3 workplace, whether at a discount rate or the base fare rate.

4 (10) “Vanpool” means seven or more persons commuting on a  
5 daily basis to and from work by means of a vehicle with a seating  
6 arrangement designed to carry 7 to 15 adults, including the driver,  
7 that is used to transport those persons who commute to and from  
8 work on a regular basis.

9 (c) This credit shall be in lieu of any other deduction which the  
10 taxpayer may otherwise claim pursuant to this part with respect to  
11 the costs paid or incurred during the taxable year by the taxpayer  
12 for qualified commute reduction expenditures.

13 ~~(d) The aggregate amount of credit that may be allowed in any~~  
14 ~~fiscal year pursuant to this section and Section 17053.58 shall be~~  
15 ~~an amount equal to the aggregate revenue increase attributable in~~  
16 ~~that same fiscal year to Sections 17284 and 24343.1.~~

17 ~~(e) (1) The Franchise Tax Board shall allocate the credit to the~~  
18 ~~taxpayer on a first-come, first-served basis.~~

19 ~~(2) The taxpayer shall claim the credit on a timely filed original~~  
20 ~~return.~~

21 ~~(3) The date a return is received shall be determined by the~~  
22 ~~Franchise Tax Board.~~

23 ~~(4) The determinations of the Franchise Tax Board with respect~~  
24 ~~to the date a return is received for purposes of this subdivision~~  
25 ~~may not be reviewed in any administrative or judicial proceeding.~~

26 ~~(f)~~

27 ~~(d) The Franchise Tax Board may prescribe rules, guidelines,~~  
28 ~~or procedures necessary or appropriate to carry out the purposes~~  
29 ~~of this section, including any guidelines regarding the allocation~~  
30 ~~of the credit allowed under this section. Chapter 3.5 (commencing~~  
31 ~~of this section. Chapter 3.5 (commencing with Section 11340) of~~  
32 ~~Part 1 of Division 3 of Title 2 of the Government Code does not~~  
33 ~~apply to any rule, guideline, or procedure prescribed by the~~  
34 ~~Franchise Tax Board pursuant to this section.~~

35 ~~(g)~~

36 ~~(e) In the case where a credit allowed under this section exceeds~~  
37 ~~the “tax,” the excess credit may be carried over to reduce the “tax”~~  
38 ~~in the following taxable year, and succeeding taxable years, if~~  
39 ~~necessary, until the credit has been exhausted.~~

1 SEC. 4. Section 24343.1 is added to the Revenue and Taxation  
2 Code, to read:  
3 24343.1. (a) For taxable years beginning on or after January  
4 1, 2009, no deduction is allowed under this part for amounts paid  
5 or incurred by an employer subject to Section 43845 of the Health  
6 and Safety Code for parking subsidies unless all employees of the  
7 employer provided with a parking subsidy are offered a parking  
8 cash-out program in accordance with Section 43845 of the Health  
9 and Safety Code.  
10 (b) For purposes of this section, “parking subsidy” and “parking  
11 cash-out program” have the same meaning as defined in Section  
12 43845 of the Health and Safety Code.  
13 SEC. 5. This act provides for a tax levy within the meaning of  
14 Article IV of the Constitution and shall go into immediate effect.

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